

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAWAN JOHNSON,

Petitioner,

Case No. 05-71253
02-80802

v.

District Judge Paul D. Borman
Magistrate Judge R. Steven Whalen

UNITED STATES OF AMERICA,

Respondent.

ORDER REGARDING SCHEDULING

On March 31, 2005, Plaintiff Dawan Johnson filed a motion to vacate sentence pursuant to 28 U.S.C. §2255. On April 13, 2005, this Court filed a Notice for Defendant to respond on or before April 28, 2005. On April 21, 2005, Plaintiff filed a motion to hold the case in abeyance [Docket #19] because he had been released to state custody to resolve a detainer filed in a separate case. On September 6, 2005, the Court received a letter indicating that he was returned to federal custody at the United States Penitentiary at Jonesville, Virginia. At the time this letter was received, the Court had not ruled on the motion to hold the case in abeyance.

Therefore, because Plaintiff is now in federal custody, the motion to hold in abeyance [Docket #19] will be DENIED AS MOOT.

Further, the previous Notice to Respond [Docket #18] is RESCINDED, and the Court now orders that Defendant shall file a response to Plaintiff's Motion to Vacate Sentence on or before NOVEMBER 5, 2005. Pursuant to Eastern District of Michigan Local Rule 7.1(e), this Motion will be decided on the written pleadings, without oral argument.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: October 3, 2005

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on October 3, 2005.

S/Gina Wilson
Judicial Assistant